

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CRIMINAL MINUTES - GENERAL

Case No. CR 18-172-GW

Date July 9, 2025

Present: The Honorable GEORGE H. WU, UNITED STATES DISTRICT JUDGE

Interpreter None

Javier Gonzalez

None Present

Kellye Ng - not present

*Deputy Clerk*

*Court Reporter*

*Assistant U.S. Attorney*

U.S.A. v. Defendant(s):

Present Cust. Bond

Attorneys for Defendants:

Present App. Ret.

1. Michael Lerma

not ✓

1. Marri B. Derby, CJA

Joel Furman, CJA

not ✓

**Proceedings: IN CHAMBERS - COURT ORDER**

The Court has received Defendant Michael Lerma's Ex Parte Application for Order Releasing or Transporting Defendant for One Day to Attend the Funeral of His Mother which is currently scheduled "at the American Legion Hall in Rio Linda, CA, on July 27, 2025, at 12:00 to 4:00 pm." See Docket No. 1767. Rio Linda is in the Eastern District of California. The Application references 18 U.S.C. § 3622(a)(2) as the sole basis for this Court's potential order. *Id.* at 3.

18 U.S.C. § 3621 states that "[a] person who has been sentenced to a term of imprisonment . . . shall be committed to the custody of the Bureau of Prisons ["BOP"]. . . ." Once within the jurisdiction of the BOP, the BOP "may release a prisoner from the place of his imprisonment for a limited period" for such reasons as "attending a funeral of a relative" so long as the release comports with 28 U.S.C. § 994(a)(2) and "otherwise appears to be consistent with the public interest and if there is reasonable cause to believe that a prisoner will honor the trust to be imposed in him. . . ." 18 U.S.C. § 3622(a)(2). However, it has been held that the decision as to whether to furlough a sentenced defendant "is committed to sole discretion of the BOP" and not to the federal courts. See *United States v. Roberts*, 612 F.Supp.3d 351, 356-57 (S.D.N.Y. 2020). Additionally, because Defendant Lerma has not yet been sentenced, he is not within the custody of the BOP. In light of the above law, the Court would deny the Application without prejudice insofar as it is based upon 18 U.S.C. § 3622(a)(2).

Additionally, Defendant Lerma has been held in custody in this matter pursuant to a Writ of Habeas Corpus Ad Prosequendum granted on May 18, 2018, issued to the Warden of the Kern Valley State Prison, where Defendant had been serving a state sentence. See Docket No. 60-1. Upon his delivery to this district court, the Government's request for his detention was granted by the magistrate judge and he was committed to the custody of the U.S. Marshal Service. See Docket Nos. 28, 173. 28 CFR § 0.111(k) provides that the Director of the U.S. Marshals Service "shall direct and supervise all activities of the U.S. Marshals Service including: . . . (k) Sustention of custody of Federal prisoners from the time of their arrest by a marshal or their remand to a marshal by the court, until the prisoner is committed by order of the court to the custody of the Attorney General for the service of sentence, otherwise released from custody by the court, or returned to the custody of the U.S. Parole Commission or the Bureau of Prisons." The U.S. Marshal Service has adopted a policy, due to the loss of at least one agent in the field, that it "will not transport prisoners to funerals." See USMS Policy Directive 9.45. In light of the above,

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it is doubtful whether the Court could order the U.S. Marshal Service to transport and/or supervise Defendant Lerma's release or transport to attend his mother's funeral in another federal jurisdiction.

Despite the above, the Court would consider any further proposals from Defendant. Defense counsel could perhaps look into the possibility of the Defendant's arranging for his "virtual" attendance at his mother's funeral from his current location at the MDC.

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Initials of Deputy Clerk JG  
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cc: